

THE CITY OF CLAYTON

Board of Aldermen
City Hall – 10 N. Bemiston Avenue
April 14, 2015
7:00 p.m.

Minutes

Mayor Sanger called the meeting to order and requested a roll call. The following individuals were in attendance:

Aldermen: Michelle Harris, Cynthia Garnholz, Mark Winings, Joanne Boulton, Alex Berger III, and Richard Lintz.

Mayor Sanger
City Manager Owens
City Attorney O'Keefe

Alderman Winings moved to approve the March 24, 2015 minutes. Alderman Garnholz seconded.

The motion to approve the minutes passed unanimously on a voice vote.

PUBLIC REQUESTS AND PETITIONS

None

A MOTION TO CONSIDER APPROVAL OF A LIQUOR LICENSE FOR 801 FISH STL, LLC DBA FOR 801 FISH ST. LOUIS LOCATED AT 172 CARONDELET PLAZA

City Manager Owens reported that 801 Fish STL, LLC dba 801 Fish St. Louis is requesting a liquor license to sell all kinds of intoxicating liquor at retail by the drink, including Sundays, at 172 Carondelet Plaza.

The Police Department has completed its review of the application and supports the issuance of the requested license. The Planning and Development department has also approved the application with no objections.

The applicant has chosen not to submit a petition from surrounding property owners and first floor tenants. As a result, they are aware that this application must have a super majority vote of five Board members in order to be approved. Staff has requested that a representative be in attendance at the meeting.

Staff recommends passing a motion to approve the liquor license to sell all kinds of intoxicating liquor at retail by the drink, including Sundays.

In response to the Board's questions, Chris Dennis, owner/chef and Michael Sullivan, owner, stated that they also own 801 Chophouse in Clayton and the city has been very supportive. They opened the first 801 Chophouse in Leawood, Kansas.

Mr. Dennis explained that the name 801 Chophouse originated from the location of the first restaurant in Des Moines at 801 Grand Avenue.

Mr. Dennis said that 801 Fish is well known for providing the freshest fin fish and crustaceans. Demolition of the interior of the building is complete and they anticipate opening by late summer.

Alderman Harris moved to approve a liquor license for 801 Fish St. Louis. Alderman Garnholz seconded.

The motion passed unanimously by voice vote.

A MOTION TO CONSIDER ACCEPTING THE CITY'S FISCAL YEAR 2014 COMPREHENSIVE ANNUAL FINANCIAL REPORT

Tammy Alsop, a partner at the City's audit firm of Hochschild Bloom LLC, presented the Board with a summary of the audit and the September 30, 2014 Comprehensive Annual Financial Report (CAFR) previously provided in the Board packet. The document is also available for public viewing on the City's website under the Finance Department page.

The Board commended Ms. Alsop and the staff for a job well done.

Alderman Harris moved to approve the FY2014 Comprehensive Annual Report (CAFR). Alderman Garnholz seconded.

The motion passed unanimously by voice vote.

REPORT ON SAVINGS IN FY2015 Budget

City Manager Owens reported that last month at a Board work session, the Board asked staff to review General Fund expenditures to date in this fiscal year to determine if there were any budget savings available. The reason for this request was that during the 1st Quarter budget amendment there were expenditures added due to the safe demonstration activity which caused the budget to move from a balanced budget to a new budget deficit of approximately \$460,000. These are one-time budget costs which should not continue into future years.

While it is a bit early in the fiscal year to present revenue trends, staff has identified approximately \$250,000 in expenditure savings which are available. These items include savings from salary and benefits due to vacancies, seasonal expenditures which are now complete, information that is known now but was not known at the time of the final budget, and various other small areas of savings. The list of proposed savings was provided in the Board packet.

In response to the Board's questions, City Manager Owens stated that the savings would be a one-time savings and not a deferment. He also explained that the staff vacancies happened in the course of various turnovers.

Mayor Sanger commended the staff for reviewing proposed savings and clarified that no action will be taken at this time.

AN ORDINANCE TO CONSIDER APPROVING A PLEDGE AGREEMENT BETWEEN THE BARRY-WEHMILLER GROUP, CHAPMAN FAMILY FOUNDATION AND ROBERT H. CHAPMAN, THE CLAYTON CENTURY FOUNDATION AND THE CITY OF CLAYTON FOR CONTRIBUTIONS TO FUND IMPROVEMENTS TO THE NORTH END OF SHAW PARK, A PRIORITY PROJECT IDENTIFIED IN THE SHAW PARK MASTER PLAN OVERLAY

City Manager Owens reported that before you tonight is a Pledge Agreement that is intended to provide the City with the funds to make improvements to the North End of Shaw Park. Included in the Shaw Park Master Plan Overlay, this project was identified as a priority project as approved by the Board of Aldermen at their

November 12, 2013 meeting. The parties to the agreement include the Barry-Wehmiller Group, Robert H. Chapman, and the Chapman Family Foundation, (collectively referred to in the agreement as “BWG”), the Clayton Century Foundation (the “Foundation”), and the City of Clayton (the “City”). The agreement outlines the following terms:

- BWG will make annual gifts to the Foundation totaling \$4,500,000 over the course of the next two years to fund the project.
- The City will contract with SWT Design for design, public engagement and construction services for the project.
- The City will have final approval of the design.
- The Foundation will grant to the City all of the funds needed for this project, utilizing gifted dollars provided to the Foundation through BWG charitable contributions.
- Funding for this project includes a Construction Manager for oversight of the project.
- SWT has estimated “maintenance and renewal costs” of \$125,000 annually or, over a twenty (20) year period, a \$2,500,000 maintenance fund.
- The Foundation will continue to grant to the City all of the funds needed for maintenance for twenty (20) years, utilizing dollars provided through BWG charitable contributions.
- The Foundation will seek approval from the City of Clayton to identify the Shaw Park North portion of the overlay as the “Chapman Plaza” using signage acceptable to the City.

If approved by all parties, the City will enter into an agreement with SWT Design to begin work on this project in the next sixty days. It is anticipated that the total time needed for design, public engagement and construction will be eighteen (18) months to two (2) years.

Recommendation is to approve the Pledge Agreement for improvements to the North Entry Project in Shaw Park as submitted.

The Board expressed their appreciation for such a generous gift to the City. Alderman Harris commented that this is a landmark gift and can be the foundation or catalyst for future accomplishments.

Mayor Sanger expressed his gratitude for the \$7 million pledge, the largest ever gift to the City and he is very thankful for the Chapman’s generosity and vision.

Alderman Harris introduced Bill No. 6485, an ordinance to consider approval of a pledge agreement between the Barry-Wehmiller Group, the Clayton Century Foundation and the City of Clayton for a contribution to fund improvements to Shaw Park, to be read for the first time by title only. Alderman Garnholz seconded.

Alderman Berger expressed that some Ward 3 citizens are “not in the know” with regard to the North Entry Project and stresses the importance of holding public forums to receive public comment.

Mayor Sanger reminded the Board that tonight they are only considering accepting a generous pledge and the next step would be considering the SWT contract. He clarified that the verbiage is a draft which can be modified.

Patty DeForrest explained that numerous meetings have been held with the director and the client and will be held throughout the entire process. She said that they will create a timeline and add three public forums.

City Attorney O’Keefe reads Bill No. 6485, an Ordinance Approving a Pledge Agreement Between the Barry-Wehmiller Group, Chapman Family Foundation and Robert H. Chapman, the Clayton Century Foundation and the City of Clayton for Contributions to Fund Improvements to the North End of Shaw Park, a Priority Project Identified in the Shaw Park Master Plan Overlay for the first time by title only.

The motion passed unanimously on a voice vote.

Mayor Sanger moved that the Board give unanimous consent to consideration for adoption of Bill No. 6485 on the day of its introduction. Alderman Garnholz seconded.

The motion passed unanimously on a voice vote.

Alderman Harris introduced Bill No. 6485, an ordinance to consider approval of a pledge agreement between the Barry-Wehmiller Group, the Clayton Century Foundation and the City of Clayton for a contribution to fund improvements to Shaw Park, to be read for the second time by title only. Alderman Garnholz seconded.

City Attorney O'Keefe reads Bill No. 6485, an Ordinance Approving a Pledge Agreement Between the Barry-Wehmiller Group, Chapman Family Foundation and Robert H. Chapman, the Clayton Century Foundation and the City of Clayton for Contributions to Fund Improvements to the North End of Shaw Park, a Priority Project Identified in the Shaw Park Master Plan Overlay for the second time by title only.

Alderman Harris – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Berger – Aye; Alderman Lintz – Aye; and Mayor Sanger – Aye. The bill was adopted and became Ordinance No. 6359 of the City of Clayton.

AN ORDINANCE TO CONSIDER APPROVING MANAGEMENT AGREEMENTS DETAILING THE RESPONSIBILITIES OF THE CITY OF CLAYTON AS THEY RELATE TO THE OPERATION AND MANAGEMENT OF THE CENTER OF CLAYTON

City Manager Owens reported that upon review of documents related to ownership and operation of the Center of Clayton it was determined that the Management Agreements that were developed in 2003 to help clarify roles and responsibilities of the City of Clayton and the School District of Clayton related to the operation and management of the Center of Clayton needed to be updated.

Patty DeForrest explained that before the Board tonight are the nine agreements between the City and the Clayton Recreation, Sports and Wellness Commission that cover the areas of Aquatic Facility Management, Climbing Wall Management, Community Programming, Exterior Facility and Grounds Maintenance, Financial Management Services, Fitness Facility Management, General Facility Management and Administration, Technology Services and Sports Recreation Programming. She said that the agreements were developed in 2003 and this is basically to clean up the language.

She explained that the primary reason these needed to be updated is due to the fact that the position of CRSWC Executive Director is no longer being filled. When these documents were written there was a full-time Executive Director and much of the reporting responsibilities identified within them referenced that position. In addition, the original set referenced specific dates such as "the approved FY04 budget". We felt that it was time to make changes in order to clarify responsibilities related to oversight but to also bring them up-to-date as they relate to specific reference to years.

In general, they have replaced responsibility for ensuring that service expectations are being met with the Director of Parks and Recreation with ultimate responsibility left in the hands of the CRSWC. We have also replaced references such as "the approved FY04 budget" with language such as "the approved budget". We have not made any changes in the division of responsibilities for handling services as this was undertaken to update the language of the documents, not change the overriding agreement as to the services being provided by the City to the CRSWC.

Alderman Berger commended the staff and CRSWC for working together cooperatively.

Alderman Harris introduced Bill No. 6486, an ordinance to consider approval of management agreements between the City and the CRSWC for services provided by the City to the CRSWC, to be read for the first time by title only. Alderman Garnholz seconded.

City Attorney O’Keefe reads Bill No. 6486, an Ordinance Approving Management Agreements Detailing the Responsibilities of the City of Clayton as They Relate to the Operation and Management of the Center of Clayton for the first time by title only.

The motion passed unanimously on a voice vote.

Mayor Sanger moved that the Board give unanimous consent to consideration for adoption of Bill No. 6486 on the day of its introduction. Alderman Garnholz seconded.

The motion passed unanimously on a voice vote.

Alderman Harris introduced Bill No. 6486, an ordinance to consider approval of management agreements between the City and the CRSWC for services provided by the City to the CRSWC, to be read for the second time by title only. Alderman Garnholz seconded.

City Attorney O’Keefe reads Bill No. 6486, an Ordinance Approving Management Agreements Detailing the Responsibilities of the City of Clayton as They Relate to the Operation and Management of the Center of Clayton for the second time by title only.

Alderman Harris – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Berger – Aye; Alderman Lintz – Aye; and Mayor Sanger – Aye. The bill was adopted and became Ordinance No. 6360 of the City of Clayton.

ORDINANCES TO CONSIDER APPROVING A LEASE AMENDMENT AND PARTIAL LEASE-TERMINATION BETWEEN THE CITY OF CLAYTON AND THE CLAYTON RECREATION, SPORTS AND WELLNESS COMMISSION; A SUBLEASE AMENDMENT AND PARTIAL SUBLEASE-TERMINATION BETWEEN THE CRSWC AND THE SCHOOL DISTRICT OF CLAYTON; AND A SECOND AMENDMENT TO THE OPERATION AND MANAGEMENT AGREEMENT FOR THE CENTER OF CLAYTON

City Manager Owens reported that during the review of documents it was found that no formal action was ever taken to transfer ownership of the buildings on either the District property on which the Center of Clayton was built or the City property on which the School District Administration Building was constructed. It was also found that the lease for property associated with the parcel upon which the School District Administrative Building was constructed had included more land than was believed to be the case.

Patty DeForrest explained to the Board that in 2013 it was agreed by the Clayton Recreation, Sports and Wellness Commission (the “CRSWC”), the City of Clayton (the “City”) and the School District of Clayton (the “District”) that the property and structure commonly known as “Stuber Gymnasium” should revert back from the CRSWC to the District. In order to complete the transfer these following actions took place:

- 1) The outstanding loan from 2007 was paid off
- 2) Clayton Engineering was hired to define property boundaries through surveys of both City and District property
- 3) Operational changes were made that included changes in staffing, financial arrangements and scheduling of Stuber
- 4) Attorneys were hired to completed the review and update of legal documents related to the CRSWC

She continued to explain that it was determined that we needed to not only make changes to the Lease that relates to the District property but also to the Lease and Sublease that relates to the City's property. In addition an Amendment was necessary to the Operation and Management Agreement in order to clarify the ownership provisions. There are four documents associated with this; however, the Lease between the District and the CRSWC does not need to be approved by the City since they are not a party to that agreement. It has been included for reference in order to clarify all property being discussed.

The other three items before you tonight are the documents that need to be amended in order to formalize the transfer of property as well as to clarify the ownership provisions for the Center of Clayton and the School District Administration Building.

In summary, the documents will do the following:

- The Lease Amendment and Partial Lease-Termination between the CRSWC and the District (6.592 acres) is related to the 9.08 acres owned by the District upon which the Center of Clayton was constructed. This partial lease-termination will return 2.496 acres of land to the District. In addition, it establishes that title to the improvements made by the CRSWC shall rest with the CRSWC during the term of the lease as well as during any renewals or extensions. Upon expiration or termination of the lease, title to the improvements will pass to the City and the District in equal shares. (The City is not a party to this document; it has been provided for informational purposes only).
- The Lease Amendment and Partial Lease-Termination Agreement (1.47 acres) between the City and the CRSWC is related to the 3.35 acres owned by the City upon which the School District of Clayton Administration Building was constructed. This partial lease-termination will return 1.88 acres of land to the City. In addition, it establishes that title to the improvements made by the District shall rest with the District during the term of the lease as well as during any renewals or extensions. Upon expiration or termination of the lease, the City shall either purchase the improvements from the District at Fair Market Value or title to the improvements will pass to the District. It also establishes that, upon termination of the lease, the Commission's Right of First Refusal ends.
- The Sublease Amendment and Partial Lease-Termination Agreement (1.47 acres) between the CRSWC and the District are also related to the 3.35 acres owned by the City upon which the School District of Clayton Administration Building was constructed. This partial lease-termination will return 1.88 acres of land to the City. In addition, it establishes that title to the improvements made by the District shall rest with the District during the term of the lease as well as during any renewals or extensions. Upon expiration or termination of the lease, the City shall either purchase the improvements from the District at Fair Market Value or title to the improvements will pass to the District. It also establishes that, upon termination of the lease, the Commission's Right of First Refusal ends.
- The Second Amendment to the Operation and Management Agreement establishes that ownership of the facilities will be as set forth in the Leases and the Sub-lease, as amended.

The original documents establish the term of these leases to be for thirty-five years (35) with an automatic renewal clause that allows for succeeding one (1) year terms, until such time, that the owners of the land sell the property, either to each other or to a third party.

Alderman Harris introduced Bill No. 6487, an ordinance to consider approval of a Lease Amendment and Partial Lease-Termination Agreement for 3.35 acres, to be read for the first time by title only.
Alderman Garnholz seconded.

City Attorney O’Keefe reads Bill No. 6487, an Ordinance Approving a Lease Amendment and Partial Lease-Termination for 3.35 Acres of Property Owned by the City of Clayton for the first time by title only.

The motion passed unanimously on a voice vote.

Mayor Sanger moved that the Board give unanimous consent to consideration for adoption of Bill No. 6487 on the day of its introduction. Alderman Garnholz seconded.

The motion passed unanimously on a voice vote.

Alderman Harris introduced Bill No. 6487, an ordinance to consider approval of a Lease Amendment and Partial Lease-Termination Agreement for 3.35 acres, to be read for the second time by title only. Alderman Garnholz seconded.

City Attorney O’Keefe reads Bill No. 6487, an Ordinance Approving a Lease Amendment and Partial Lease-Termination for 3.35 Acres of Property Owned by the City of Clayton for the second time by title only.

Alderman Harris – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Berger – Aye; Alderman Lintz – Aye; and Mayor Sanger – Aye. The bill was adopted and became Ordinance No. 6361 of the City of Clayton.

Alderman Harris introduced Bill No. 6488, an ordinance to consider approval of a sublease amendment and partial sublease-termination agreement for 3.35 acres of City owned property, to be read for the first time by title only. Alderman Garnholz seconded.

City Attorney O’Keefe reads Bill No. 6488, an Ordinance Approving a Sublease Amendment and Partial Sublease-Termination for 3.35 Acres of Property Owned by the City of Clayton for the first time by title only.

The motion passed unanimously on a voice vote.

Mayor Sanger moved that the Board give unanimous consent to consideration for adoption of Bill No. 6488 on the day of its introduction. Alderman Garnholz seconded.

The motion passed unanimously on a voice vote.

Alderman Harris introduced Bill No. 6488, an ordinance to consider approval of a sublease amendment and partial sublease-termination agreement for 3.35 acres of City owned property, to be read for the second time by title only. Alderman Garnholz seconded.

City Attorney O’Keefe reads Bill No. 6488, an Ordinance Approving a Sublease Amendment and Partial Sublease-Termination for 3.35 Acres of Property Owned by the City of Clayton for the second time by title only.

Alderman Harris – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Berger – Aye; Alderman Lintz – Aye; and Mayor Sanger – Aye. The bill was adopted and became Ordinance No. 6362 of the City of Clayton.

Alderman Harris introduced Bill No. 6489, an ordinance to consider an amendment to the Operation and Management Agreement for the Center of Clayton, to be read for the first time by title only. Alderman Garnholz seconded.

City Attorney O’Keefe reads Bill No. 6489, an Ordinance Approving a Second Amendment to the Operation and Management Agreement by and Among the City of Clayton, the School District of Clayton and the Clayton Recreation, Sports and Wellness Commission for the first time by title only.

The motion passed unanimously on a voice vote.

Mayor Sanger moved that the Board give unanimous consent to consideration for adoption of Bill No. 6489 on the day of its introduction. Alderman Garnholz seconded.

The motion passed unanimously on a voice vote.

Alderman Harris introduced Bill No. 6489, an ordinance to consider an amendment to the Operation and Management Agreement for the Center of Clayton, to be read for the second time by title only. Alderman Garnholz seconded.

City Attorney O’Keefe reads Bill No. 6489, an Ordinance Approving a Second Amendment to the Operation and Management Agreement by and Among the City of Clayton, the School District of Clayton and the Clayton Recreation, Sports and Wellness Commission for the second time by title only.

Alderman Harris – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Berger – Aye; Alderman Lintz – Aye; and Mayor Sanger – Aye. The bill was adopted and became Ordinance No. 6363 of the City of Clayton.

AN ORDINANCE TO CONSIDER AUTHORIZING EXECUTION OF A COOPERATIVE AGREEMENT BETWEEN THE CLAYTON RECREATION, SPORTS AND WELLNESS COMMISSION (CRSWC), THE SCHOOL DISTRICT OF CLAYTON AND THE CITY OF CLAYTON FOR THE SUMMERQUEST CAMP PROGRAM

City Manager Owens reported that the last agreement was updated in 2005 which addresses the areas of purpose, governance, finance, term, facility use and provision of services by all three entities.

Alderman Harris introduced Bill No. 6490, an ordinance to consider approval of a *SummerQuest* Agreement between the CRSWC, the School District and the City of Clayton, to be read for the first time by title only. Alderman Garnholz seconded.

City Attorney O’Keefe reads Bill No. 6490, an Ordinance Approving a Cooperative Agreement Between the Clayton Recreation, Sports and Wellness Commission (The “CRSWC”), the School District of Clayton (The “District”) and the City of Clayton (The “City”) for the *Summerquest* Camp Program for the first time by title only.

The motion passed unanimously on a voice vote.

Mayor Sanger moved that the Board give unanimous consent to consideration for adoption of Bill No. 6490 on the day of its introduction. Alderman Garnholz seconded.

The motion passed unanimously on a voice vote.

Alderman Harris introduced Bill No. 6490, an ordinance to consider approval of a *SummerQuest* Agreement between the CRSWC, the School District and the City of Clayton, to be read for the second time by title only. Alderman Garnholz seconded.

City Attorney O’Keefe reads Bill No. 6490, an Ordinance Approving a Cooperative Agreement Between the Clayton Recreation, Sports and Wellness Commission (The “CRSWC”), the School District of Clayton (The “District”) and the City of Clayton (The “City”) for the *SummerQuest* Camp Program for the second time by title only.

Alderman Harris – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Berger – Aye; Alderman Lintz – Aye; and Mayor Sanger – Aye. The bill was adopted and became Ordinance No. 6364 of the City of Clayton.

Other

Alderman Garnholz commended the staff on the fantastic event - Cardinal’s Home Opener Lunch Give-a-Way.

Alderman Garnholz announced that the *St. Louis Business Journal* reported that the Police Building has been rated as the highest rated LEED – Platinum certified building in the region.

City Manager Owens also commended the Board and staff on the great event.

Alderman Winings reported that the Plan Commission considered the Vanguard Development project and recommends approval by the Board of Aldermen to consider the zoning changes.

Alderman Winings congratulated Aldermen Boulton and Berger on their re-election to office.

Alderman Lintz moved that the Board adjourn to a closed meeting, with a closed vote and record, as authorized by Section 610.021(1), (2) and (3) Revised Statutes of Missouri, relating to legal issues, real estate and/or personnel, and to discuss matters related to negotiation of a contract pursuant to Section 610.021(12), RSMo. and/or proprietary information pursuant to Sec. 610.021(15), and/or information related to public safety and security measures pursuant to Section 610.021(18) and (19) RSMO. Alderman Boulton seconded the motion.

Alderman Harris – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; Alderman Lintz – Aye; and Mayor Sanger – Aye.

There being no further regular business the meeting was adjourned at 8:21 p.m.

Mayor

ATTEST:

City Clerk